IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2053 OF 2007

Vimal Kumar Rathi & Anr. ..Petitioners

Vs.

The State of Maharashtra and anr. ..Respondents

Mr. A.s. Khan i/by M/s. A.s. Khan Associates for petitioners.
Ms. S.V. Gajare, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : November 02, 2007.

P.C.:

1. Heard Mr. Khan the learned counsel for the petitioners who are accused nos.12 and 20 in C.C. No. 406/S/1998. The said case was filed under Section 138 of the Negotiable Instruments Act, 1881 and the learned Metropolitan Magistrate was pleased to issue process by his order dated 19/2/1998. The order of issuance of process was sought to be challenged almost after eight years by filing Criminal Revision Application No. 441 of 2006 and the same has been dismissed by the learned Additional Sessions Judge,

Gr. Bombay.

2. It was submitted by the learned counsel for the petitioners that in the complaint filed by the present respondent no.2, there was no averment regarding the petitioners being in-charge for and responsible to the Company and its business and, therefore, the complaint was required to be quashed so far as the petitioners are concerned.

3. Para 1 of the complaint reads as under:-

> "I, operate from at 29, Sethna Building, 1st Floor, Nawroji Seth Road, Thakurdwar, Mumbai - 400 002. The Accused No.1 M/s. Geekay Exim (India) Limited is a public limited company of which the Accused Nos.2 to 20 are Directors and all the Accused Nos.2 to 20 are responsible for the management of the day to day business of Accused Nos.1 Company."

. The learned Additional Sessions Judge referred to these averments and by relying upon the decision

rendered by the Apex Court in the case of N. Rangachari Vs. BSNL [2007 ALL MR (Cri) 1437 (S.C.)] dismissed the revision application. The learned Additional Sessions Judge reproduced the observations made by their Lordships in the case of N. Rangachari (Supra) and held that it was for the accused to prove whether at the time the offence was committed they had knowledge or were responsible for the dishonour of the cheque. He, therefore, held that the complaint did not lack in material particulars and averments and a triable case was made out.

4. The view taken by the learned Additional Sessions Judge cannot be termed as patently erroneous or perverse so as to call for interference under the supervisory powers under Article 227 of the Constitution.

5. Hence, the petition is rejected summarily.

(B.H. Marlapalle,J.)